

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE CORNEJO,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

No. 2:20-cv-1125 CKD P

ORDER AND

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding through counsel, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner paid the filing fee.

Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review all petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the petitioner is not entitled to relief. The court has conducted that review.

Court records reveal that petitioner has previously filed a petition for a writ of habeas corpus attacking the conviction and sentence challenged in this case. See Cornejo v. Pfeifer, No. 2:18-cv-0572 JKS P. Before petitioner can proceed with the instant successive petition, he must obtain authorization from United States Court of Appeals for the Ninth Circuit pursuant to 28 U.S.C. § 2244(b)(3). Because it does not appear that petitioner has obtained the required authorization, petitioner's habeas petition must be dismissed.

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1 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court
2 assign a district court judge to this case.

3 IT IS HEREBY RECOMMENDED that:

- 4 1. Petitioner's petition for a writ of habeas corpus be dismissed; and
5 2. This case be closed.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, petitioner may file written
9 objections with the court. Such a document should be captioned "Objections to Magistrate
10 Judge's Findings and Recommendations." In his objections, petitioner may address whether a
11 certificate of appealability should issue in the event he files an appeal of the judgment in this
12 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or
13 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as
14 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability "should
15 issue if the prisoner can show: (1) 'that jurists of reason would find it debatable whether the
16 district court was correct in its procedural ruling;' and (2) 'that jurists of reason would find it
17 debatable whether the petition states a valid claim of the denial of a constitutional right.'" Morris
18 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484
19 (2000)). Petitioner is advised that failure to file objections within the specified time may waive
20 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 Dated: June 5, 2020

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23 CAROLYN K. DELANEY
24 UNITED STATES MAGISTRATE JUDGE

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